

Background

After the fire, Bulk Chemicals was not able to access the Facility to conduct an investigation for weeks. As Bulk Chemicals describes it, “Unsafe conditions that prevented access included damaged and unstable stacked chemical containers and a highly corrosive environment. In addition, fumed nitric acid residues created a slippery surface throughout the Facility making access to the top of the bulk storage tank... a significant safety hazard.” When Bulk Chemicals was able to safely enter the Facility, in late July 2019, Bulk Chemicals undertook its investigation and additional remediation efforts. The cleanup contractor was present on July 25, 2019, at the time of the EPA inspection. The cleanup contractor told inspectors it was coring

through seams in the floor to determine if material was released through the floor. Borings continued through July 30, 2019, which revealed acidic soil. Soil was excavated from underneath the concrete floor beginning on August 29, 2019.

On August 15, 2019, before the excavation commenced, Bulk Chemicals sent written follow-up reports to the SERC and LEPC.

Discussion of Possible Violations.

Amount of Release to the Environment. During the inspection, Bulk Chemicals told EPA that approximately 1,850 gallons of nitric acid were released from the leaking tank, which is the figure EPA relied upon when assessing release reporting obligations under CERCLA and EPCRA. (b) (5)(b) (5)(b) (5)(b) (5)(b) (5)(b) (5) EPA learned during settlement discussions with Bulk Chemicals was that the amount of nitric acid released to the environment from the leaking nitric acid tank was not 1,850 gallons (or 14,472 pounds). Instead, the amount of nitric acid released to the road outside the facility was approximately 90 gallons (or 705 pounds), according to affidavits provided by Bulk Chemicals from its employees. Bulk Chemicals describes the employees as having prior experience responding to chemical spills; one of the employees has more than ten years' experience as a certified emergency response hazardous materials chemist. This estimated release amount is consistent with the still pictures from the video footage of the release on Mohrsville Road. This amount, 705 pounds, is below the reportable quantity (RQ) for nitric acid of 1,000 pounds. More nitric acid was released from the leaking tank, but the majority was released into the containment area within the Facility's warehouse and then pumped into the mixing tank or was absorbed by the cleanup contractor's absorbent material and drummed for disposal.

As discovered later, after the inspection, some nitric acid also leached below the concrete floor. This additional nitric acid was discovered during the July 25-29th sampling event, which revealed acidic soil in eight of the 41 samples. The amount of nitric acid that seeped beneath the concrete slab could not be determined. (b) (5)(b) (5)(b) (5)(b) (5)(b) (5)(b) (5)(b) (5)

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Obligation to Report to NRC. Bulk Chemicals reported the nitric acid release to the NRC at 12:32 p.m. on June 10, 2019. At the time Bulk Chemicals reported the release, it was unknown whether more than the RQ of nitric acid had been released. Six weeks later, Bulk Chemicals learned that additional nitric acid seeped through the concrete floor, but the additional quantity released and the timing of the release are unknown. (b) (5)(b) (5)(b) (5)(b) (5)(b) (5)

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Please contact us if you would like to discuss further.